

JUDGE SCHEINDLIN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CIVIL ACTION NO.:

FELICIA P. CURIA

07 CIV 9576

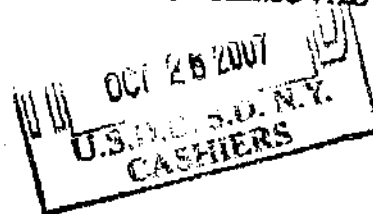
Plaintiffs,

-against-

NOTICE OF REMOVAL

REX D. MANDEL and MANDEL EXPRESS,

Defendant.



TAKE NOTICE, that on this date, defendants REX D. MANDEL and MANDEL EXPRESS, by their undersigned counsel, have filed this Notice of Removal pursuant to 28 USC §1446(a) in the office of the Clerk of the United States District Court for the Southern District of New York.

Defendants, by their undersigned counsel, show:

1. Plaintiff, FELICIA P. CURIA brought an action against the defendant in the Supreme Court of the State of New York, County of Bronx, by filing a Verified Complaint on or about September 21, 2007. A true copy of the Verified Complaint is annexed hereto as "Exhibit A."
2. The Summons and Verified Complaint were served upon the Secretary of State of the State of New York at 123 William Street, 19th Floor, New York, New York 10038 as to each defendant on or about September 26, 2007. A true copy of the Summons is annexed hereto as "Exhibit B." A true copy of the Affidavit of Service as to defendant REX D. MANDEL is attached hereto as Exhibit "C." A true copy of the Affidavit of Service as to defendant MANDEL EXPRESS is attached hereto as Exhibit "D." It should be noted that neither the defendant REX D. MANDEL nor the defendant MANDEL EXPRESS has personally been served with a copy of the Summons and Complaint by either regular mail or certified mail at the addresses set forth on the respective Affidavits of Service.
3. The defendants' insurer, Great West Casualty Company, received a courtesy copy of the Summons and Verified Complaint on October 24, 2007, which was accompanied by the letter from the plaintiff's attorney to Christy Paulley of Great West Casualty Company dated October 22, 2007, a copy of which is attached hereto as Exhibit "E."
4. There have been no other proceedings in this action.

5. Plaintiff FELICIA P. CURIA purports to be a citizen and resident of the State of New York, residing within the County of Bronx.

6. Defendant, REX D. MANDEL, is a citizen and resident of the State of Iowa, residing in Dunlap, Iowa, Harrison County.

7. Defendant MANDEL EXPRESS, is a citizen of the State of Iowa, residing in Dunlap, Iowa, Harrison County, and an entity registered to do business in the State of Iowa, with its principal place of business located in Dulap, Iowa, Harrison County.

8. The plaintiff has alleged severe and permanent injuries, consisting, but not limited to, four cervical disc herniations, five thoracic disc herniations and three lumbar disc herniations, as well as radiculopathy. Upon information and belief, the plaintiff alleges that these damages constitute an issue in dispute which exceeds \$75,000. A copy of the MRI reports of the plaintiff's cervical, thoracic and lumbar spines as well as the nerve conduction studies are attached hereto as Exhibit "F."

9. Jurisdiction over the subject matter of this action is conferred on this Court by 28 U.S.C. §1441(a).

10. Jurisdiction on this Court is proper pursuant to 28 U.S.C. §1332 and 28 U.S.C. §1441 in that the parties are of complete diversity, the amount in controversy exceeds \$75,000, exclusive of interest and costs, and no defendant is a citizen of the State of New York.

11. This Notice is filed with this Court within 30 days of defendants' receipt "through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based," as provided by 28 USC §1446(b).

PLEASE TAKE FURTHER NOTICE, that defendants, upon filing the Notice of Removal in the office of the Clerk of the United States District Court for the Southern District of New York, have also filed a copy of the Notice with the Clerk of the Supreme Court of the State of New York, County of Bronx, 851 Grand Concourse, Room 118, Bronx, New York 10451, to effect removal of this action

to the United States District Court pursuant to 28 USC §1446(d).

Dated: New York, New York
October 26, 2007

SCHOENFELD MORELAND, P.C.
Attorneys for Defendants
REX D. MANDEL and MANDEL EXPRESS
140 Broadway, 36th floor
New York, New York 10005
(212) 509-0300

By:


JEFF R. THOMAS, ESQ. (JT0787)

TO: Philip J. Sporn & Associates
664 Morris Park Avenue
Bronx, New York 10462

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FELICIA P. CURIA

CIVIL ACTION NO.:

Plaintiffs,

-against-

AFFIRMATION OF SERVICE

REX D. MANDEL and MANDEL EXPRESS,

Defendant.

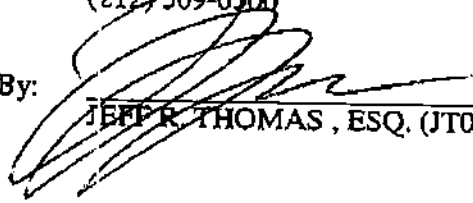
JEFF R. THOMAS, ESQ. affirms as follows:

1. I am an attorney at law of the State of New York duly admitted to practice before the United States District Court, Southern District of New York. I represent the defendants REX D. MANDEL and MANDEL EXPRESS. As such, I am fully familiar with the facts set forth herein.
2. I hereby certify that on this date, I served a copy of the within Notice of Removal upon plaintiff in this action by mailing same via regular mail, from 140 Broadway, 36th Floor, New York, New York, addressed to plaintiffs' attorney, Philip J. Sporn, Esq., at 664 Morris Park Avenue, Bronx, New York 10462.
3. I also certify that on this date, I caused a copy of the Notice of Removal to be filed with the Clerk of the Supreme Court of the State of New York, County of Bronx at the courthouse located at 851 Grand Concourse, Room 118, Bronx, New York 10451.
4. Pursuant to 28 U.S.C. Section 1746, I certify under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
October 26, 2007

SCHOENFELD MORELAND, P.C.
Attorneys for Defendants
REX D. MANDEL and MANDEL EXPRESS
140 Broadway, 36th floor
New York, New York 10005
(212) 509-0500

By:


JEFF R. THOMAS, ESQ. (JT0787)

PLACE AN X IN ONE BOX ONLY

Original Proceeding ☒ 2a. Removed from State Court ☐ 2b. Removed from State Court AND at least one party is a pro se litigant

3. Remanded from Appellate Court

4. Reinstated or Reopened

5. Transferred from (Specify District)

6. Multidistrict Litigation

7. Appeal to District Judge from Magistrate Judge Judgment

ORIGIN

1. U.S. PLAINTIFF

2. U.S. DEFENDANT

3. FEDERAL QUESTION (U.S. NOT A PARTY)

4. DIVERSITY

IF DIVERSITY, INDICATE CITIZENSHIP BELOW. (28 USC 1332, 1441)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/>	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF <input type="checkbox"/> 3 <input type="checkbox"/>	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF <input type="checkbox"/> 5 <input checked="" type="checkbox"/>
CITIZEN OF ANOTHER STATE	<input type="checkbox"/> 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	<input type="checkbox"/> 4	FOREIGN NATION	<input type="checkbox"/> 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Felicia P. Curia
(street address unknown)
resident of County of Bronx, State of New York

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Rex D. Mandel 809 Court Street Dunlap, Iowa 51529 Harrison County	Mandel Express 809 Court Street Dunlap, Iowa 51529 Harrison County
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DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

n/a

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ FOLEY SQUARE
(DO NOT check either box if this is a PRISONER PETITION.)

DATE 10/26/07 SIGNATURE OF ATTORNEY OF RECORD

RECEIPT #

ADMITTED TO PRACTICE IN THIS DISTRICT

YES (DATE ADMITTED Mo. 3 Yr. 2004)

Attorney Bar Code # JT0787

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

J. Michael McMahon, Clerk of Court by _____ Deputy Clerk DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Felicia P. Curia
Plaintiff

Case No.

-v-

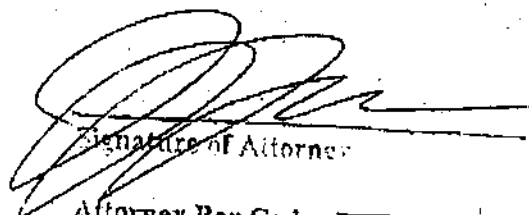
and

Rule 7.1 Statement

Defendant Rex D. Mandel (+ Mandel Express)

Pursuant to Federal Rule of Civil Procedure 7.1 [formerly Local General Rule 1.9] and to enable District Judges and Magistrate Judges of the Court to evaluate possible disqualification or recusal, the undersigned counsel for Rex D. Mandel and Mandel Express (a private non-governmental party) certifies that the following are corporate parents, affiliates and/or subsidiaries of said party, which are publicly held.

Date: 10/26/07


Signature of Attorney

Attorney Bar Code: JT0787

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Helicia P. Curia
Plaintiff

-v-

and

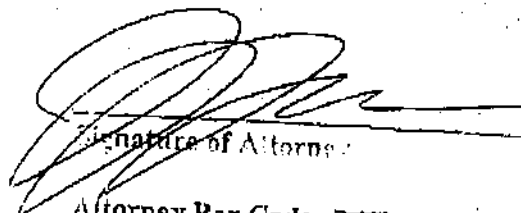
Defendant Rex D. Mandel + Mandel Express

Case No.

Rule 7.1 Statement

Pursuant to Federal Rule of Civil Procedure 7.1 [formerly Local General Rule 1.9] and to enable District Judges and Magistrate Judges of the Court to evaluate possible disqualification or recusal, the undersigned counsel for Rex D. Mandel and Mandel Express (a private non-governmental party) certifies that the following are corporate parents, affiliates and/or subsidiaries of said party, which are publicly held.

Date: 10/26/07


Signature of Attorney:

Attorney Bar Code: JT0787